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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

14 MICHAEL J. AGUIRRE,)
15)
16 Plaintiff,)
17)
18 v.)
19)
20 UNITED STATES)
21 DEPARTMENT OF THE)
22 TREASURY,)
23)
24 Defendant.)
25 _____)

Civil No. 09cv1283 (MMA)

**DEFENDANT'S NOTICE
OF MOTION AND MOTION
TO DISMISS COMPLAINT**

Date: August 31, 2009
Time: 2:30 pm
Courtroom: 5
The Honorable Michael M. Anello

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PLEASE TAKE NOTICE that, on the date set forth above or as soon as counsel may be heard, in the courtroom of the Honorable Michael M. Anello, Defendant United States Department of the Treasury, by and through counsel, will move this Court to dismiss Plaintiff's Complaint in

1 the above-captioned action for lack of subject matter jurisdiction pursuant to Federal Rule of Civil
2 Procedure 12(b)(1).

3 Defendant's motion to dismiss is based upon this notice, the accompanying Memorandum
4 of Points and Authorities, exhibits thereto, Plaintiff's Complaint, and any other matter the Court may
5 consider at oral argument or otherwise.

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7 DATED: July 24, 2009

Respectfully Submitted,

8 TONY WEST
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9 JOHN R. TYLER
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12 s/ Bonnie J. Prober
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